DOCUMENT RESUME

ED 425 560 EC 306 222

TITLE	What Will Happen If Social Security Reviews Your Child's Eligibility for SSI? Arc Q&A #101-36.
INSTITUTION	Arc, Arlington, TX.
PUB DATE	1997-08-00
NOTE	6p.; EC 306 223 is a Spanish translation of this document.
AVAILABLE FROM	Arc National Headquarters, 500 E. Border St., S-300, Arlington, TX 76010; Tel: 817-261-6003; TDD: 817-277-0553.
PUB TYPE	Guides - Non-Classroom (055)
EDRS PRICE	EDRS Price MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	Child Advocacy; Compliance (Legal); *Disabilities; *Eligibility; *Federal Aid; *Financial Support; Parent Role
IDENTIFIERS	*Medicaid; *Supplemental Security Income Program

ABSTRACT

This fact sheet uses a question-and-answer format to address concerns that parents of children with a disability may have concerning their child's continuing eligibility for Supplemental Security Income (SSI). Questions and answers explain the following topics: how children now qualify as "disabled" and the new standards; when Social Security will review some children's cases; what information parents should help collect; how parents can appeal if a child is denied SSI benefits after the review; and what happens to Medicaid coverage if a child loses SSI benefits. Developmental milestones are listed by age grouping and area of functioning (cognition/communication, motor, social, personal, concentration/persistence, and responsiveness to stimuli). Sources of information, assistance, and advocacy are listed. (DB)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

What Will Happen If Social Security Reviews Your Child's Eligibility for SSI?

ARC Q&A #101-36

ED 425 560

The Arc
A national organization on mental retardation

S. A. Davis

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☐ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

2B

EC 306 222

The Arc

a national organization on mental retardation

Q&A

What Will Happen If Social Security Reviews Your Child's Eligibility for SSI?

By the Judge David L. Bazelon Center for Mental Health Law

Families who receive benefits from the children's Supplemental Security Income (SSI) program because of a child's disability may be at risk of losing this support. This document describes what they can do to help prevent this.

The new welfare law that took effect in 1996 changes the way children qualify for SSI disability benefits. Now the Social Security Administration (the federal agency that runs the SSI program) has to review the eligibility of more than 260,000 of the children who receive SSI to see if they still qualify.

The agency believes the reviews will find that at least 135,000 children -- most of them with emotional or behavioral problems or mental retardation -- are no longer eligible. These children will lose the cash benefits they now receive.

If your child's case might be reviewed, you should already have received at least one letter from Social Security. If you have, don't give up hope. Many of the children whose eligibility is reviewed may still qualify for benefits.

The new Social Security rules allow you to show how your child is disabled by a physical or mental condition or combination of conditions. You can collect medical and other evidence to help your child remain eligible for SSI benefits.

This document explains:

- how children now qualify as "disabled"
- when Social Security will review some children's cases
- what information parents should help collect
- how parents can appeal if a child is denied SSI benefits after the review
- what happens to Medicaid coverage if a child loses SSI benefits

When will Social Security review my child's case?

Social Security has until February 1998 to do the reviews and also to process at least 100,000 new applications for children's benefits that were put "on hold" after the welfare law passed. With so many cases to review, parents are encouraged to help make sure their child's case file includes all the necessary information.

Just because your child gets SSI benefits doesn't mean his or her case will be reviewed. Two thirds of the children who now receive SSI benefits will not have their cases reviewed this year. If you didn't receive Social Security's letter, your child is most likely one of them.

Even if you did receive a letter, you may not have to do anything more. If your child's file has enough information for Social Security to decide that he or she is still eligible, you will get another letter saying that benefits will continue. That's all.

However, if your child's file doesn't already have enough information for a favorable decision about eligibility, you will receive a second letter, telling you that Social Security is ready to review your child's case. This letter says at the top "Important Notice -- You must contact us or (your child's) SSI may stop."

What will Social Security be looking for?

The person reviewing the case will not see your child, but will look at the information in the file about your child's physical and mental condition. This means you should collect all the information you can to show how your child's condition interferes with his or her everyday activities. That includes medical and other written reports from doctors, nurses, therapists, child care providers, teachers, friends and family and anyone else who knows your child.

Unfortunately, getting SSI benefits depends on showing how serious your child's limitations are, even with the hard work you and your child have done and the progress you have made. You must be honest, but you need to stress the problems your child still faces every day.

How will Social Security review my child's case?

The welfare law made three major changes in how Social Security decides if a child is eligible for SSI because of a disability. They are described briefly in the box below.

The New Standard for Childhood Disability

1. Social Security has a new definition of disability for children, with a higher standard. To qualify for benefits, a child must have "marked and severe functional limitations" from a physical or mental condition.

2. Social Security will no longer use its old functional assessment to determine if a child is disabled. However, it must still consider all evidence about your child's functional limitations.

3. Social Security has changed the way it considers certain behavior problems caused by a child's mental or emotional condition. It is very important to show how these problems affect your child's ability to get along with parents, adults, teachers, friends and classmates.

EC 306222

National Headquarters, 500 E. Border St., S-300, Arlington, Texas 76010, 817/261-6003 • 817/277-0553 (TDD)

Technically stated, Social Security defines "marked and severe functional limitations" as requiring a child to prove "listing-level severity." To prove this, a child's condition or combination of conditions must meet or "medically or functionally equal" one of the conditions in Social Security's "Listing of Impairments."

What does the new disability standard mean for my child?

Social Security's "Listing of Impairments" describes common physical and mental conditions, such as attention deficit hyperactivity disorder, cerebral palsy, sickle cell anemia, spina bifida, mental retardation, autism, eating disorders, anxiety disorders, schizophrenia and many other conditions that are severe enough to disable a child or adolescent. You can get details about the listings from the Social Security office.

Social Security will also look at how your child functions in various specific areas, depending on his or her age -- how he or she communicates, concentrates, does self-care and physical activities, and interacts with others. So when you collect information for Social Security, you should get records, reports and letters about what your child does every day. The box at the end of this document lists some of the information that is helpful.

How can my child's condition "meet or equal" a listed condition?

A child with any type of physical or mental condition can qualify for SSI—**if the condition is severe enough.**

To decide if a child qualifies, Social Security looks at how the child's condition affects his or her ability to function in broad areas, like the ones in the box at the end of this document, and asks several questions:

1. **Does your child's condition match the exact description of a condition on the list?** If it does, then it meets a listing and your child qualifies.

2. **If your child's condition is not listed, is it medically as serious as a listed impairment?** Social Security will review medical records and other evidence to decide if your child's condition (or combination of conditions) is medically as serious as one of the listed impairments -- in other words, if it is as problematic for your child's health. If it is, your child can qualify.

3. **If your child's condition is not listed, is it functionally as serious as a listed impairment?** Social Security reviews the medical records and other evidence to decide if your child's condition (or combination of conditions) is functionally as serious as any of the listed conditions. In other words, if it interferes as much with your child's abilities. If it does, your child can qualify.

What does Social Security need to know about my child's functioning?

Your child's condition could "functionally equal" a listed impairment if the answer to any of these four questions is "yes":

1. Are the child's limitations specifically mentioned in any listing?

2. Are the limitations the result of episodes produced by a chronic illness?

3. Are the limitations the result of treatment or medicine the child needs?

4. Does the child have limitations in broad areas like those listed in the box at the end of this fact sheet?

Social Security must consider **all** the ways a child can qualify and must complete a specific form before making a decision. You can ask your Social Security worker for the form: SSA-538.

How do I show that my child can qualify?

Social Security needs a complete medical and functional history of your child. You can help provide much of this information. Be sure to keep a copy of everything you give Social Security.

You don't need to have all the information before your appointment at the Social Security office, though it's helpful to take along as much as you have been able to collect. What you don't have, the Social Security office will get.

Here are some suggestions:

1. Make a list of the names, addresses and telephone numbers of all your child's medical and mental health service providers, with the dates of all visits during the past year.

2. Collect your child's medical and mental health records. Ask the doctor and/or hospital for these records. The records should have the names of any medicines your child takes and the dates and reasons for hospital stays and/or surgeries. Also collect reports from any other professionals who have seen your child in the past year, such as pediatricians, psychologists, mental health counselors, clinical social workers, medical specialists, nurses, and physical, occupational or speech therapists.

3. Collect school records. Ask your child's teachers, school counselors or psychologists, nurses, daycare or preschool workers and early intervention specialists for short written reports about your child's activities and limitations. Include any results from school evaluations and educational plans. If school records are unavailable for any reason, ask to have your child's review postponed until the records are available.

4. Get short written reports or letters from other people who see your child regularly. Information from clergy, relatives and family friends is very helpful to describe what your child can and can't do.

5. Begin now to keep a diary of your child's activities, problems, pain and other experiences that you see. You know your child better than anyone else. Remember that Social Security needs to know about any functional limitations, so specific examples are extremely useful. You should be proud of your child's achievements, but Social Security needs to know everything about the problems he or she still faces.

Social Security Case Reviews

If I get the notice about a case review, will my child's benefits stop?

Not necessarily, and even if they do, not right away. If your child now receives SSI, the checks will come until you get a decision about your child's case review.

Getting a notice doesn't mean your child's benefits will end. The notice tells you that Social Security needs more information and asks you to call or visit the local office at a specific time. If you can't come to the office at that time or would rather talk with a Social Security worker by telephone, you must call as soon as possible. The phone number and address of your local Social Security office are on the notice.

Even if you haven't yet been able to get the medical and other records Social Security needs, go to the meeting anyway. If you give Social Security the names and addresses of doctors, nurses, therapists, child care providers and teachers, the agency's worker can get the records.

How will I find out the result of my child's case review?

Social Security will send you a letter after the review is finished. If your child still qualifies for benefits, the letter will say so. If the review finds that your child is not disabled according to the new law, the letter will say that SSI benefits will stop. If it does, you have 60 days to appeal the decision. But to keep receiving benefits, you must appeal within ten days.

Appealing Social Security's Decision

What can I do if Social Security says my child no longer qualifies for SSI?

Don't give up! If Social Security says that your child no longer qualifies, you have a right to appeal the denial. However, you must appeal within 60 days of getting the letter saying your child is not eligible.

Can my child continue to get benefits if I appeal?

Yes. But -- and this is VERY IMPORTANT: to keep receiving benefits, you must appeal ***within 10 days*** from the date you receive the letter saying your child is not eligible. And when you appeal, you ***must say that you want benefits to continue.***

When you appeal, your child's SSI benefits will continue through most of the process. And that can take many months.

How to Appeal

The first step is to ask Social Security to reconsider its denial. You begin by completing a "reconsideration form" at your local Social Security office. Ask for Form 789-U4.

On the form, it is better to check the box for a "disability hearing" because then you can actually meet with someone to explain how your child's condition limits what he or she can do.

If you can't get to your Social Security office, then call and have Form 789-U4 sent to you. But be sure to get the form, complete it and return it within 10 days so your child's benefits will continue.

With the reconsideration form you can provide new reports or information about changes in your child's condition. You can also ask the hearing officer to collect more information about your child.

What if my child is turned down again?

Many children are denied benefits a second time during this first part of the appeal process. **Don't give up!** The next step is a hearing before a Social Security administrative law judge (ALJ). It is much more likely to be successful.

More than half of all denials are reversed by ALJs, so it's worth requesting a hearing. Also, it will take months to get a hearing after you are first denied, but if you appealed within 10 days at the beginning, your child can continue to get benefits.

The hearings are informal, held in private with the ALJ. Although parents can represent their child themselves, it is a good idea to ask a lawyer or trained advocate to help you. The local Legal Aid or Bar Association or your state Protection and Advocacy agency can help if you can't afford an attorney.

You can present new information at the hearing, such as medical records that may have been overlooked and new test results or medical exams by different doctors. You can testify on your child's behalf and so can other witnesses -- for example, medical experts, teachers, neighbors and friends who can discuss your child's functional limitations.

If your child is still found not eligible, you and your representative can request (again within 60 days) a review by the Appeals Council. If that is unsuccessful, you have another 60 days to appeal to federal court.

If my child is denied benefits after all the appeals, do we have to pay back the benefits we received while appealing?

The benefits you receive during the appeals process are considered an "overpayment" if you lose after all the appeals. However, people who can show that they appealed the denial of SSI benefits "in good faith" do not have to repay these benefits. In cases like yours, where your child was already receiving benefits, Social Security is less likely to try to collect this money.

If you believe your child has a severe disabling condition and ought to qualify, always appeal a decision to deny these benefits.

Medicaid

Will my child continue to get Medicaid if SSI stops?

Yes. Your child might still qualify for Medicaid for reasons other than being eligible for SSI. For example, if your household income is below $1110.83 a month for a family of three or $1,337.50 for a family of four. The income limits are more in Alaska, Hawaii and some other states that make Medicaid available to families with higher incomes (1997).

Also, on August 5, 1997, President Clinton signed a law that requires states to continue providing Medicaid to children who lose SSI eligibility because of the changes in the welfare law of 1996.

Is the state Medicaid agency required to help me?

Yes. Under federal law, before the state Medicaid agency can stop medical assistance, it must review your child's case to decide if he or she is eligible for any other reason. (However, even though the law requires it, some state Medicaid agencies do not always do this review.)

Although the new law (1997) requires that states continue Medicaid coverage for children who lose SSI, it may take some time before the states recognize their new responsibility. You may have to insist on continued coverage.

What should I do if I get a notice saying my child's Medicaid is ending?

You should **immediately** appeal the loss of Medicaid by asking for a "fair hearing." You must ask **within 10 days** of getting your denial letter to make sure that your child's Medicaid will continue without interruption. Call your local Legal Aid office for help with this fair hearing.

For information, assistance and advocacy contact:

- your local Legal Aid office or state Protection & Advocacy system
- your state or local Bar Association
- other state or local child and family advocacy programs
- Social Security's toll-free phone:

  1-800-772-1213 (TDD: 1-800-325-0778) from 7 a.m. to 7 p.m. weekdays. Lines are often busy, so keep trying. If you can, call early or late in the day and avoid Mondays.

This *Q&A* was reprinted, with modifications and permission, from information produced by the Judge David L. Bazelon Center for Mental Health Law
1101 15th Street, NW, #1212
Washington, DC 20005
HN1660@handsnet.org (e-mail)
http://www.bazelon.org/(WWW)

#101-36 Revised Aug. 1997
(replaces #101-44)

Useful Information for Social Security about Your Child's Functioning

Social Security workers need to know how your child's condition affects his or her ability to function in these areas according to his or her age:

Cognition/communication (birth-age 18)
- Can the child learn, understand and solve problems?
- remember information?
- describe events?
- respond to directions or questions?
- ask questions to get information?
- express feelings and ideas?
- Is the child's speech intelligible?
- Is the child's hearing adequate for conversation?

A child who can't perform some of these activities may have impaired functioning.

Motor (birth-age 18)
- Does the child have the motor skills necessary for play, sports and everyday physical activities other than self-care?

A child who can't perform some of these activities may have impaired functioning.

Social (birth-age 18)
- Can the child establish relationships with parents, other adults and peers?
- Does the child interact appropriately?
- Does the child get along with family members, friends, classmates and teachers?
- Does the child have a history of running away, showing physical aggression towards others or avoiding interpersonal relationships?

A child who doesn't interact socially in appropriate ways may have impaired functioning.

Personal (age 3-18)
- Can the child do self-care activities such as eating, toileting, bathing and dressing?
- maintain personal hygiene?
- follow prescribed medication or therapy schedule?
- use safety precautions?

A child who fails to develop or use self-care skills or who has a pattern of injuring him or herself may have impaired functioning.

Concentration, persistence or pace (age 3-18)
- Can the child keep focused on an activity or task?
- perform the activity or complete the task in the amount of time reasonably expected for his or her age?

A child who is unable to play, do household chores or study may have impaired functioning.

Responsiveness to stimuli for very young infants (birth-1 only)
- Does the infant respond appropriately to sights, sounds and touch?

A baby who has inappropriate physical or emotional reactions to sights, sounds or touch may have impaired functioning.